

**Paul S. Yoney, Inc. and Local 173 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States of America and Canada.** Case 34-CA-5747

March 2, 1994

**SECOND SUPPLEMENTAL DECISION AND ORDER**

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND TRUESDALE

On September 30, 1992, the National Labor Relations Board issued a Decision and Order<sup>1</sup> inter alia, ordering Paul S. Yoney, Inc. to make whole certain of its unit employees for loss of benefits suffered as a result of its failure to make contractually required contributions to the Local 173 Health Fund, the Connecticut Plumbers and Pipefitters Pension Fund, the Plumbers and Pipefitters National Pension Fund, and the Local 173 Apprentice and Journeymen Training Fund in violation of Section 8(a)(1) and (5) of the National Labor Relations Act. On March 2, 1993, the United States Court of Appeals for the Second Circuit issued its judgment enforcing the Board's Order.

A controversy having arisen over the amounts due, on May 27, 1993, the Regional Director for Region 34 issued a compliance specification and notice of hearing alleging the amounts due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer. On July 12, 1993, the General Counsel filed a Motion to Transfer Case to the Board and for Summary Judgment, with exhibits attached. On August 17, 1993, the Board issued a Supplemental Decision and Order granting the General Counsel's motion.<sup>2</sup>

A further controversy having arisen over the amounts due as of October 31, 1993, the Regional Director for Region 34 issued a supplemental compliance specification and notice of hearing on December 28, 1993, alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of

the supplemental compliance specification, the Respondent failed to file an answer.

By letter dated January 19, 1994, the Regional attorney advised the Respondent that no answer to the supplemental compliance specification had been received and that unless an appropriate answer was filed by January 28, 1994, summary judgment would be sought. The Respondent filed no answer.

On February 7, 1994, the Acting General Counsel filed with the Board a Motion for Summary Judgment and for Issuance of Board Supplemental Decision and Order, with exhibits attached. On February 10, 1994, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the supplemental compliance specification are therefore undisputed.

**Ruling on Motion for Summary Judgment**

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the supplemental compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the supplemental compliance specification to be admitted as true, and grant the Acting General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net amount due is as stated in the supplemental compliance specification and we will order payment by the Respondent of the amounts set forth below, plus interest accrued on the amounts to the date of payment.

<sup>1</sup> 308 NLRB No. 170 (not reported in Board volumes).

<sup>2</sup> 311 NLRB No. 175 (not reported in Board volumes).

## ORDER

The National Labor Relations Board orders that the Respondent, Paul S. Yoney, Inc., Bridgeport, Connecticut, its officers, agents, successors, and assigns, shall pay the amounts set forth below, plus interest:

Local 173 Health Fund	\$16,605
Connecticut Plumbers and Pipefitters Pension Fund	\$ 7,380
Plumbers and Pipefitters National Pension Fund	\$ 6,396

Local 173 Apprentice and  
Journeyman Training Fund \$ 820

Dated, Washington, D.C. March 2, 1994

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James M. Stephens, Chairman

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Dennis M. Devaney, Member

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John C. Truesdale, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD